UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

VIRTAMOVE, CORP.,	§	Case No. 2:24-cv-00093-JRG
	§	(Lead Case)
Plaintiff,	§	
	§	
v.	§	**JURY TRIAL DEMANDED**
	§	
HEWLETT PACKARD ENTERPRISE COMPANY,	§	
	§	
	§	
Defendant.	§	
	§	
VIRTAMOVE, CORP.,	§	Case No. 2:24-cv-00064-JRG
	§	(Member Case)
Plaintiff,	§	
	§	
v.	§	**JURY TRIAL DEMANDED**
	§	
INTERNATIONAL BUSINESS MACHINES CORP.,	§	
	§	
	§	
Defendant.	§	
	§	
	§	

DECLARATION OF KYLE A. CALHOUN IN SUPPORT OF DEFENDANT INTERNATIONAL BUSINESS MACHINES CORP.'S OPENING BRIEF IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT OF NO INFRINGEMENT

I, Kyle A. Calhoun, hereby declare:

1.   I am a partner at Kirkland & Ellis LLP, counsel of record for Defendant International Business Machines Corp. ("IBM") in the above-captioned action. I make this declaration based on my personal knowledge and review of the documents referenced herein. If called to testify, I could and would testify competently to the matters set forth below.

2.   Attached as Exhibit 1 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0022070.

3.   Attached as Exhibit 2 is a true and correct copy of a production document from Hewlett Packard Enterprise Company, bearing beginning bates VM_HPE_0000001.

4.   Attached as Exhibit 3 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0022045.

5.   Attached as Exhibit 4 is a true and correct copy of excerpts from the Rebuttal Expert Report of Jim Bergman, dated 7/14/2025.

6.   Attached as Exhibit 5 is a true and correct copy of excerpts from the Invalidity Opening Expert Report of Stephen Wicker, dated 6/23/2025.

7.   Attached as Exhibit 6 is a true and correct copy of excerpts from the Opening Expert Report of James Malackowski, dated 6/23/2025.

8.   Attached as Exhibit 7 is a true and correct copy of excerpts from the Rebuttal Expert Report of Stephen Wicker, dated 7/15/2025.

9.   Attached as Exhibit 8 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000005276.

10.   Attached as Exhibit 9 is a true and correct copy of an excerpt of the Opening Expert Report of Eric Koskinen, dated 6/23/2025.

11.   Attached as Exhibit 10 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000192933.

12.   Attached as Exhibit 11 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000192921.

13.   Attached as Exhibit 12 is a true and correct copy of excerpts from the Eric Koskinen deposition transcript, dated 7/18/2025.

14.   Attached as Exhibit 13 is a true and correct copy of excerpts from the Nigel Stokes deposition transcript, dated 5/21/2025.

15.   Attached as Exhibit 14 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0000809.

16.   Attached as Exhibit 15 is a true and correct copy of t a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001330.

17.   Attached as Exhibit 16 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0036109.

18.   Attached as Exhibit 17 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0036108.

19.   Attached as Exhibit 18 is a true and correct copy of a web capture from https://www.docker.com/resources/what-container/, last visited 7/27/2025.

20.   Attached as Exhibit 19 is a true and correct copy of excerpts from Greg O'Connor's Deposition Transcript, dated 5/15/2025.

21.   Attached as Exhibit 20 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0036021.

22.   Attached as Exhibit 21 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0036020.

23.   Attached as Exhibit 22 is a true and correct copy of the declaration of Walter Falk in support of Motion for Summary Judgment, dated 7/25/2025.

24.   Attached as Exhibit 23 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0029997.

25.   Attached as Exhibit 24 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0029997.

26.   Exhibit 25 is a true and correct copy of excerpts from Walter Falk's Deposition Transcript, dated 5/13/2025.

27.   Attached as Exhibit 26 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0036533.

28.   Attached as Exhibit 27 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0029919.

29.   Attached as Exhibit 28 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0029923.

30.   Attached as Exhibit 29 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0030007.

31.   Attached as Exhibit 30 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0000435.

32.   Attached as Exhibit 31 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000092622.

33.   Attached as Exhibit 32 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0044754.

34.   Attached as Exhibit 33 is a true and correct copy IBM's First Supplemental Objections and Responses to VirtaMove's First Set of Interrogatories, dated 11/15/2024.

35.   Attached as Exhibit 34 is a true and correct copy of excerpts from Cedric Burgins Deposition Transcript, dated 5/28/2025.

36.   Attached as Exhibit 35 is a true and correct copy of the Complaint for Patent Infringement filed in *VirtaMove, Corp., v. Amazon.com*, Civil Action No. 7:24-cv-00030, dated 1/26/2024.

37.   Attached as Exhibit 36 is a true and correct copy of VirtaMove's Preliminary Disclosure of Infringement Contentions, dated 6/5/2025.

38.   Attached as Exhibit 37 is a true and correct copy of an email chain between D. Kolko and IBM Counsel re Affirmative Defenses, dated 7/17/2025.

39.   Attached as Exhibit 38 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000092755.

40.   Attached as Exhibit 39 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0045074.

41.   Attached as Exhibit 40 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0045004.

42.   Attached as Exhibit 41 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0045048.

43.   Attached as Exhibit 42 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0030101.

44.   Attached as Exhibit 43 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0020234.

45.   Attached as Exhibit 44 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000198856.

46.   Attached as Exhibit 45 is a true and correct copy of excerpts from the Donn Rochette Deposition Transcript, dated 9/10/2024.

47.   Attached as Exhibit 46 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000198833.

48.   Attached as Exhibit 47 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000198834.

49.   Attached as Exhibit 48 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0035776.

50.   Attached as Exhibit 49 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0035863.

51.   Attached as Exhibit 50 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0036126.

52.   Attached as Exhibit 51 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0035063.

53.   Attached as Exhibit 52 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0035102.

54.   Attached as Exhibit 53 is a true and correct copy of excerpts from the Paul O'Leary Deposition Transcript, dated 5/15/2025.

55.   Attached as Exhibit 54 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000190959.

56.   Attached as Exhibit 55 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000193170.

57.   Attached as Exhibit 56 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000193247.

58.   Attached as Exhibit 57 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000004419.

59.   Attached as Exhibit 58 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000004731.

60.   Attached as Exhibit 59 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000193258.

61.   Attached as Exhibit 60 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000005072.

62.   Attached as Exhibit 61 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000004931.

63.   Attached as Exhibit 62 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000004953.

64.   Attached as Exhibit 63 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000190353.

65.   Attached as Exhibit 64 is a true and correct copy of excerpts from the Michael Brown Deposition Transcript, dated 5/22/2025.

66.   Attached as Exhibit 65 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000190957.

67.   Attached as Exhibit 66 is a true and correct copy of a production document from IBM, bearing beginning bates IBM_VM_000004100.

68.   My firm has applied highlighting to Exhibits 1-17, 19-21, 23-25, 28-32, 36, 39, 42-43, 45, 47-48, 50, 52-65 consistent with the guidance in Local Rule CV-7(b).

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 28, 2025 in Atlanta, GA.

_/s/ Kyle A. Calhoun_____

Kyle A. Calhoun

<u>CERTIFICATE OF SERVICE</u>

The undersigned hereby certifies that all counsel of record who are deemed to have

consented to electronic service are being served with a copy of this document via the Court's

CM/ECF system pursuant to Local Rule CV-5(a)(3) on July 28, 2025.

<div align="right">

/s/ Todd M. Friedman
Todd M. Friedman

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